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Response to Restriction Requirement in 10/579,772
(Attorney Docket No. 7378/88140)

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PATENT
7378/88140

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Yasushi HIGUCHI Confirmation: 5680
Serial No.: 10/579,772 Art Unit: 1657
Filed: May 18, 2006 Examiner: H. Lilling
For: Process for producing optically active 2-alkycysteine,
derivative thereof, and processes for production

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450f

June 23, 2008

Sir:

Applicants respond to the Office Action mailed June 5, 2008, requiring the election of one of the following groups of claims for initial prosecution on the merits:

Group I, claims 1, 2, 4-8, and 15-19;

Group II, claims 3 and 20-23; or

Group III, claims 9-14,

Applicants submit the restriction requirement lacks grounding in the relevant statute, 35 U.S.C. § 121, which requires the inventions be independent **and** distinct. The present requirement for restriction does not establish the conjunctive condition of independent **and** distinct which, by statute, is the predicate before a requirement for restriction may be imposed.

Applicants have also submitted Information Disclosure Statements, as well as a PCT Preliminary Examination Report, to expedite and facilitate consideration of the claimed inventions on their merits. Therefore, Applicants have taken *bona fide* measures

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Application Serial No. 10/579,772
Attorney Docket No. 7378/88140
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to reduce the burden on the Examiner with respect searching and consideration of prior art.

Accordingly, Applicants respectfully request withdrawal of the restriction requirement. Failing such favorable reconsideration, Applicants respectfully request rejoinder of all claims upon indication of allowable elected subject matter.

However, in the event the restriction requirement is not withdrawn and should the claims not be rejoined upon a finding of allowable elected subject matter, Applicants hereby elect, with traverse for the reasons outlined above, Group I, claims 1, 2, 4-8, and 15-19, for initial prosecution on the merits. Given the classification of distinct species at page 5, paragraph 6, Applicants believe their election of Group I renders moot any subsequent requirement to choose an ultimate distinct species.

Applicants courteously solicit favorable consideration of the requests herein, followed by a favorable action on the merits.

Respectfully submitted,

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